

Dauterman, Aaron

From: Dauterman, Aaron
Sent: Wednesday, January 10, 2018 4:31 PM
To: 'Robert Eshenbaugh (Reshenbaugh@capitoladvocates.net)'
Subject: Critical Infrastructure
Attachments: I_132_1049 Version 3.pdf

Hi Rob,

Attached is our final version of the language. Let me know if you have any questions or concerns. Per our conversation earlier, I anticipate dropping the language by Friday barring any snags.

Best,

Aaron T. Dauterman
Senior Legislative Aide
Office of State Senator Frank Hoagland
30th Senate District
O: (614) 466-6508

Reviewed As To Form By
Legislative Service Commission

I_132_1049-3

132nd General Assembly
Regular Session
2017-2018

. B. No.

—
A BILL

To amend sections 2307.61, 2909.07, 2909.10,
2911.21, and 2911.211 of the Revised Code to
prohibit criminal mischief, criminal trespass,
and aggravated trespass on a critical
infrastructure facility, to impose fines for
organizations that are complicit in those
offenses, and to impose civil liability for
damage caused by trespass on a critical
infrastructure facility.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2307.61, 2909.07, 2909.10,
2911.21, and 2911.211 of the Revised Code be amended to read as
follows:

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Sec. 2307.61. (A) If a property owner brings a civil
action pursuant to division (A) of section 2307.60 of the
Revised Code to recover damages from any person who willfully
damages the owner's property, who damages the owner's property,
while trespassing on a critical infrastructure facility, or who
commits a theft offense, as defined in section 2913.01 of the



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Revised Code, involving the owner's property, the property owner
may recover as follows: 19
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(1) In the civil action, the property owner may elect to
recover moneys as described in division (A)(1)(a) or (b) of this
section: 21
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(a) Compensatory damages that may include, but are not
limited to, the value of the property and liquidated damages in
whichever of the following amounts applies: 24
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(i) Fifty dollars, if the value of the property was fifty
dollars or less at the time it was willfully damaged, was
damaged by trespass on a critical infrastructure facility, or
was the subject of a theft offense; 27
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(ii) One hundred dollars, if the value of the property was
more than fifty dollars, but not more than one hundred dollars,
at the time it was willfully damaged, was damaged by trespass on
a critical infrastructure facility, or was the subject of a
theft offense; 31
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(iii) One hundred fifty dollars, if the value of the
property was more than one hundred dollars at the time it was
willfully damaged, was damaged by trespass on a critical
infrastructure facility, or was the subject of a theft offense. 36
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(b) Liquidated damages in whichever of the following
amounts is greater: 40
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(i) Two hundred dollars; 42

(ii) Three times the value of the property at the time it
was willfully damaged, was damaged by trespass on a critical
infrastructure facility, or was the subject of a theft offense,
irrespective of whether the property is recovered by way of 43
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replevin or otherwise, is destroyed or otherwise damaged, is modified or otherwise altered, or is resalable at its full market price. This division does not apply to a check, negotiable order of withdrawal, share draft, or other negotiable instrument that was returned or dishonored for insufficient funds by a financial institution if the check, negotiable order of withdrawal, share draft, or other negotiable instrument was presented by an individual borrower to a licensee under sections 1321.35 to 1321.48 of the Revised Code for a loan transaction.	47 48 49 50 51 52 53 54 55
(2) In a civil action in which the value of the property that was willfully damaged, <u>was damaged by trespass on a critical infrastructure facility,</u> or was the subject of a theft offense is less than five thousand dollars, the property owner may recover damages as described in division (A)(1)(a) or (b) of this section and additionally may recover the reasonable administrative costs, if any, of the property owner that were incurred in connection with actions taken pursuant to division (A)(2) of this section, the cost of maintaining the civil action, and reasonable attorney's fees, if all of the following apply:	56 57 58 59 60 61 62 63 64 65 66
(a) The property owner, at least thirty days prior to the filing of the civil action, serves a written demand for payment of moneys as described in division (A)(1)(a) of this section and the reasonable administrative costs, if any, of the property owner that have been incurred in connection with actions taken pursuant to division (A)(2) of this section, upon the person who willfully damaged the property, <u>trespassed on a critical infrastructure facility,</u> or committed the theft offense.	67 68 69 70 71 72 73 74
(b) The demand conforms to the requirements of division (C) of this section and is sent by certified mail, return	75 76

receipt requested.	77
(c) Either the person who willfully damaged the property, <u>trespassed on a critical infrastructure facility</u> , or committed the theft offense does not make payment to the property owner of the amount specified in the demand within thirty days after the date of its service upon that person and does not enter into an agreement with the property owner during that thirty-day period for that payment or the person who willfully damaged the property, <u>trespassed on a critical infrastructure facility</u> , or committed the theft offense enters into an agreement with the property owner during that thirty-day period for that payment but does not make that payment in accordance with the agreement.	78 79 80 81 82 83 84 85 86 87 88
(3) A person or organization that compensates or repays a person for trespass on a critical infrastructure facility may be held vicariously liable for any judgment the property owner obtains against the person who trespassed on the facility.	89 90 91 92
(B) If a property owner who brings a civil action pursuant to division (A) of section 2307.60 of the Revised Code to recover damages for willful damage to property, <u>for damage caused by trespass on a critical infrastructure facility</u> , or for a theft offense attempts to collect the reasonable administrative costs, if any, of the property owner that have been incurred in connection with actions taken pursuant to division (A)(2) of this section, the cost of maintaining the civil action, and reasonable attorney's fees under authority of that division and if the defendant prevails in the civil action, the defendant may recover from the property owner reasonable attorney's fees, the cost of defending the civil action, and any compensatory damages that may be proven.	93 94 95 96 97 98 99 100 101 102 103 104 105
(C) For purposes of division (A)(2) of this section, a	106

written demand for payment shall include a conspicuous notice to the person upon whom the demand is to be served that indicates all of the following:	107 108 109
(1) The willful property damage, <u>trespass on a critical</u> <u>infrastructure facility</u> , or theft offense that the person allegedly committed;	110 111 112
(2) That, if the person makes payment of the amount specified in the demand within thirty days after its service upon the person or enters into an agreement with the property owner during that thirty-day period for that payment and makes that payment in accordance with the agreement, the person cannot be sued by the property owner in a civil action in relation to the willful property damage, <u>trespass on a critical</u> <u>infrastructure facility</u> , or theft offense;	113 114 115 116 117 118 119 120
(3) That, if the person fails to make payment of the amount specified in the demand within thirty days after the date of its service upon the person and fails to enter into an agreement for that payment with the property owner during that thirty-day period or enters into an agreement for that payment with the property owner during that thirty-day period but does not make that payment in accordance with the agreement, the person may be sued in a civil action in relation to the willful property damage, <u>trespass on a critical infrastructure facility</u> , or theft offense;	121 122 123 124 125 126 127 128 129 130
(4) The potential judgment that the person may be required to pay if the person is sued in a civil action in relation to the willful property damage, <u>trespass on a critical</u> <u>infrastructure facility</u> , or theft offense and judgment is rendered against the person in that civil action;	131 132 133 134 135

(5) That, if the person is sued in a civil action by the property owner in relation to the willful property damage, <u>trespass on a critical infrastructure facility</u> , or theft offense, if the civil action requests that the person be required to pay the reasonable administrative costs, if any, of the property owner that have been incurred in connection with actions taken pursuant to division (A)(2) of this section, the cost of maintaining the action, and reasonable attorney's fees, and if the person prevails in the civil action, the person may recover from the property owner reasonable attorney's fees, the cost of defending the action, and any compensatory damages that can be proved.	136 137 138 139 140 141 142 143 144 145 146 147
(D) If a property owner whose property was willfully damaged, <u>was damaged by trespass on a critical infrastructure facility</u> , or was the subject of a theft offense serves a written demand for payment upon a person who willfully damaged the property, <u>trespassed on a critical infrastructure facility</u> , or committed the theft offense and if the person makes payment of the amount specified in the demand within thirty days after the date of its service upon the person or the person enters into an agreement with the property owner during that thirty-day period for that payment and makes payment in accordance with the agreement, the property owner shall not file a civil action against the person in relation to the willful property damage, <u>trespass on a critical infrastructure facility</u> , or theft offense.	148 149 150 151 152 153 154 155 156 157 158 159 160 161
(E) If a property owner whose property was willfully damaged, <u>was damaged by trespass on a critical infrastructure facility</u> , or was the subject of a theft offense serves a written demand for payment upon a person who willfully damaged the property, <u>trespassed on a critical infrastructure facility</u> , or	162 163 164 165 166

committed the theft offense and if the person, within thirty days after the date of service of the demand upon the person, enters into an agreement with the property owner for the payment of the amount specified in the demand but does not make that payment in accordance with the agreement, the time between the entering of the agreement and the failure to make that payment shall not be computed as any part of the period within which a civil action based on the willful property damage, <u>trespass on a critical infrastructure facility,</u> or theft offense must be brought under the Revised Code.	167 168 169 170 171 172 173 174 175 176
(F) A civil action to recover damages for willful property damage, <u>for trespass on a critical infrastructure facility,</u> or for a theft offense may be joined with a civil action that is brought pursuant to Chapter 2737. of the Revised Code to recover the property. If the two actions are joined, any compensatory damages recoverable by the property owner shall be limited to the value of the property.	177 178 179 180 181 182 183
(G) (1) In a civil action to recover damages for willful property damage, <u>for trespass on a critical infrastructure facility,</u> or for a theft offense, the trier of fact may determine that an owner's property was willfully damaged <u>or</u> , <u>damaged by trespass</u> or that a theft offense involving the owner's property has been committed, whether or not any person has pleaded guilty to or has been convicted of any criminal offense or has been adjudicated a delinquent child in relation to any act involving the owner's property.	184 185 186 187 188 189 190 191 192
(2) This section does not affect the prosecution of any criminal action or proceeding or any action to obtain a delinquent child adjudication in connection with willful property damage, <u>trespass on a critical infrastructure facility,</u>	193 194 195 196

or a theft offense.	197
(H) As used in this section:	198
(1) "Administrative costs" includes the costs of written demands for payment and associated postage under division (A) (2) of this section.	199 200 201
(2) "Value of the property" means one of the following:	202
(a) The retail value of any property that is offered for sale by a mercantile establishment, irrespective of whether the property is destroyed or otherwise damaged, is modified or otherwise altered, or otherwise is not resalable at its full market price;	203 204 205 206 207
(b) The face value of any check or other negotiable instrument that is not honored due to insufficient funds in the drawer's account, the absence of any drawer's account, or another reason, and all charges imposed by a bank, savings and loan association, credit union, or other financial institution upon the holder of the check or other negotiable instrument;	208 209 210 211 212 213
(c) The replacement value of any property not described in division (H)(1) or (2) of this section.	214 215
(3) " <u>Critical infrastructure facility</u> " has the same meaning as in section 2911.21 of the Revised Code.	216 217
(4) " <u>Organization</u> " has the same meaning as in section 2901.23 of the Revised Code.	218 219
Sec. 2909.07. (A) No person shall:	220
(1) Without privilege to do so, knowingly move, deface, damage, destroy, or otherwise improperly tamper with either of the following:	221 222 223

(a) The property of another;	224
(b) One's own residential real property with the purpose to decrease the value of or enjoyment of the residential real property, if both of the following apply:	225
(i) The residential real property is subject to a mortgage.	226
(ii) The person has been served with a summons and complaint in a pending residential mortgage loan foreclosure action relating to that real property. As used in this division, "pending" includes the time between judgment entry and confirmation of sale.	227
(2) With purpose to interfere with the use or enjoyment of property of another, employ a tear gas device, stink bomb, smoke generator, or other device releasing a substance that is harmful or offensive to persons exposed or that tends to cause public alarm;	228
(3) Without privilege to do so, knowingly move, deface, damage, destroy, or otherwise improperly tamper with a bench mark, triangulation station, boundary marker, or other survey station, monument, or marker;	229
(4) Without privilege to do so, knowingly move, deface, damage, destroy, or otherwise improperly tamper with any safety device, the property of another, or the property of the offender when required or placed for the safety of others, so as to destroy or diminish its effectiveness or availability for its intended purpose;	230
(5) With purpose to interfere with the use or enjoyment of the property of another, set a fire on the land of another or place personal property that has been set on fire on the land of	231
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another, which fire or personal property is outside and apart from any building, other structure, or personal property that is on that land;	253 254 255
(6) Without privilege to do so, and with intent to impair the functioning of any computer, computer system, computer network, computer software, or computer program, knowingly do any of the following:	256 257 258 259
(a) In any manner or by any means, including, but not limited to, computer hacking, alter, damage, destroy, or modify a computer, computer system, computer network, computer software, or computer program or data contained in a computer, computer system, computer network, computer software, or computer program;	260 261 262 263 264 265
(b) Introduce a computer contaminant into a computer, computer system, computer network, computer software, or computer program.	266 267 268
<u>(7) Without privilege to do so, knowingly deface, damage, destroy, or tamper with a critical infrastructure facility, or otherwise impede or inhibit the facility's operations.</u>	269 270 271
(B) As used in this section:—	272
(1) " <u>safety</u> -Safety device" means any fire extinguisher, fire hose, or fire axe, or any fire escape, emergency exit, or emergency escape equipment, or any life line, life-saving ring, life preserver, or life boat or raft, or any alarm, light, flare, signal, sign, or notice intended to warn of danger or emergency, or intended for other safety purposes, or any guard railing or safety barricade, or any traffic sign or signal, or any railroad grade crossing sign, signal, or gate, or any first aid or survival equipment, or any other device, apparatus, or	273 274 275 276 277 278 279 280 281

equipment intended for protecting or preserving the safety of persons or property.	282 283
<u>(2) "Critical infrastructure facility" has the same meaning as in section 2911.21 of the Revised Code.</u>	284 285
<u>(3) "Organization" has the same meaning as in section 2901.23 of the Revised Code.</u>	286 287
(C) (1) Whoever violates this section is guilty of criminal mischief, and shall be punished as provided in division (C) (2), or (3), or (4) of this section.	288 289 290
(2) Except as otherwise provided in this division, criminal mischief committed in violation of division (A) (1), (2), (3), (4), or (5) of this section is a misdemeanor of the third degree. Except as otherwise provided in this division, if the violation of division (A) (1), (2), (3), (4), or (5) of this section creates a risk of physical harm to any person, criminal mischief committed in violation of division (A) (1), (2), (3), (4), or (5) of this section is a misdemeanor of the first degree. If the property involved in the violation of division (A) (1), (2), (3), (4), or (5) of this section is an aircraft, an aircraft engine, propeller, appliance, spare part, fuel, lubricant, hydraulic fluid, any other equipment, implement, or material used or intended to be used in the operation of an aircraft, or any cargo carried or intended to be carried in an aircraft, criminal mischief committed in violation of division (A) (1), (2), (3), (4), or (5) of this section is one of the following:	291 292 293 294 295 296 297 298 299 300 301 302 303 304 305 306 307
(a) If the violation creates a risk of physical harm to any person, except as otherwise provided in division (C) (2) (b) of this section, criminal mischief committed in violation of	308 309 310

division (A) (1), (2), (3), (4), or (5) of this section is a	311
felony of the fifth degree.	312
(b) If the violation creates a substantial risk of	313
physical harm to any person or if the property involved in a	314
violation of this section is an occupied aircraft, criminal	315
mischief committed in violation of division (A) (1), (2), (3),	316
(4), or (5) of this section is a felony of the fourth degree.	317
(3) Except as otherwise provided in this division,	318
criminal mischief committed in violation of division (A) (6) of	319
this section is a misdemeanor of the first degree. Except as	320
otherwise provided in this division, if the value of the	321
computer, computer system, computer network, computer software,	322
computer program, or data involved in the violation of division	323
(A) (6) of this section or the loss to the victim resulting from	324
the violation is one thousand dollars or more and less than ten	325
thousand dollars, or if the computer, computer system, computer	326
network, computer software, computer program, or data involved	327
in the violation of division (A) (6) of this section is used or	328
intended to be used in the operation of an aircraft and the	329
violation creates a risk of physical harm to any person,	330
criminal mischief committed in violation of division (A) (6) of	331
this section is a felony of the fifth degree. If the value of	332
the computer, computer system, computer network, computer	333
software, computer program, or data involved in the violation of	334
division (A) (6) of this section or the loss to the victim	335
resulting from the violation is ten thousand dollars or more, or	336
if the computer, computer system, computer network, computer	337
software, computer program, or data involved in the violation of	338
division (A) (6) of this section is used or intended to be used	339
in the operation of an aircraft and the violation creates a	340
substantial risk of physical harm to any person or the aircraft	341

in question is an occupied aircraft, criminal mischief committed in violation of division (A) (6) of this section is a felony of the fourth degree.	342 343 344
<u>(4) Criminal mischief committed in violation of division (A) (7) of this section is a felony of the first degree.</u> <u>Notwithstanding section 2929.31 of the Revised Code, any organization found guilty of complicity in a violation of that division under section 2923.03 of the Revised Code shall be punished with a fine that is ten times the maximum fine that can be imposed on an individual for a felony of the first degree.</u>	345 346 347 348 349 350 351
Sec. 2909.10. (A) No person shall knowingly, and by any means, drop or throw any object at, onto, or in the path of, any railroad rail, railroad track, locomotive, engine, railroad car, or other vehicle of a railroad company while such vehicle is on a railroad track.	352 353 354 355 356
(B) No person, without privilege to do so, shall climb upon or into any locomotive, engine, railroad car, or other vehicle of a railroad company when it is on a railroad track.	357 358 359
(C) No person, without privilege to do so, shall disrupt, delay, or prevent the operation of any train or other vehicle of a railroad company while such vehicle is on a railroad track.	360 361 362
(D) No person, without privilege to do so, shall knowingly enter or remain on the land or premises of a railroad company.	363 364
(E)—Whoever violates division (A) of this section is guilty of railroad vandalism. Whoever violates division (B) of this section is guilty of criminal trespass on a locomotive, engine, railroad car, or other railroad vehicle. Whoever violates division (C) of this section is guilty of interference with the operation of a train.	365 366 367 368 369 370

Except as otherwise provided in this division, railroad vandalism; criminal trespass on a locomotive, engine, railroad car, or other railroad vehicle; and interference with the operation of a train each is a misdemeanor of the first degree.	371 372 373 374 375 376 377 378 379 380 381 382 383 384
(F) Whoever violates division (D) of this section is guilty of criminal trespass on the land or premises of a railroad company, a misdemeanor of the fourth degree.	385 386 387
Sec. 2911.21. (A) No person, without privilege to do so, shall do any of the following:	388 389
(1) Knowingly enter or remain on the land or premises of another;	390 391
(2) Knowingly enter or remain on the land or premises of another, the use of which is lawfully restricted to certain persons, purposes, modes, or hours, when the offender knows the offender is in violation of any such restriction or is reckless in that regard;	392 393 394 395 396
(3) Recklessly enter or remain on the land or premises of another, as to which notice against unauthorized access or presence is given by actual communication to the offender, or in	397 398 399

a manner prescribed by law, or by posting in a manner reasonably calculated to come to the attention of potential intruders, or by fencing or other enclosure manifestly designed to restrict access;	400 401 402 403
(4) Being on the land or premises of another, negligently fail or refuse to leave upon being notified by signage posted in a conspicuous place or otherwise being notified to do so by the owner or occupant, or the agent or servant of either;	404 405 406 407
<u>(5) Knowingly enter, remain on, or operate a drone over the land or premises of another that contains a critical infrastructure facility and is beyond a fence, an enclosure manifestly designed to restrict access, or signs posted in a manner reasonably calculated to come to the attention of potential intruders.</u>	408 409 410 411 412 413
(B) It is no defense to a charge under this section that the land or premises involved was owned, controlled, or in custody of a public agency.	414 415 416
(C) It is no defense to a charge under this section that the offender was authorized to enter or remain on the land or premises involved, when such authorization was secured by deception.	417 418 419 420
(D) (1) Whoever violates this section is guilty of criminal trespass. <u>Criminal trespass in violation of division (A) (1), (2), (3), or (4) of this section is a misdemeanor of the fourth degree. Criminal trespass in violation of division (A) (5) of this section is a misdemeanor of the first degree.</u> <u>Notwithstanding section 2929.31 of the Revised Code, any organization found guilty of complicity in a violation of division (A) (5) of this section under section 2923.03 of the</u>	421 422 423 424 425 426 427 428

<u>Revised Code shall be punished with a fine that is ten times the maximum fine that can be imposed on an individual for a misdemeanor of the first degree.</u>	429
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(2) Notwithstanding section 2929.28 of the Revised Code, if the person, in committing the violation of this section, used a snowmobile, off-highway motorcycle, or all-purpose vehicle, the court shall impose a fine of two times the usual amount imposed for the violation.	432
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(3) If an offender previously has been convicted of or pleaded guilty to two or more violations of this section or a substantially equivalent municipal ordinance, and the offender, in committing each violation, used a snowmobile, off-highway motorcycle, or all-purpose vehicle, the court, in addition to or independent of all other penalties imposed for the violation, may impound the certificate of registration of that snowmobile or off-highway motorcycle or the certificate of registration and license plate of that all-purpose vehicle for not less than sixty days. In such a case, section 4519.47 of the Revised Code applies.	437
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(E) Notwithstanding any provision of the Revised Code, if the offender, in committing the violation of this section, used an all-purpose vehicle, the clerk of the court shall pay the fine imposed pursuant to this section to the state recreational vehicle fund created by section 4519.11 of the Revised Code.	448
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(F) As used in this section:	453
(1) "All-purpose vehicle," "off-highway motorcycle," and "snowmobile" have the same meanings as in section 4519.01 of the Revised Code.	454
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(2) "Land or premises" includes any land, building,	457

structure, or place belonging to, controlled by, or in custody of another, and any separate enclosure or room, or portion thereof.	458 459 460
(3) "Organization" has the same meaning as in section <u>2901.23 of the Revised Code.</u>	461 462
(4) "Drone" means a powered, aerial device to which all of <u>the following apply:</u>	463 464
(a) It does not carry a human operator and is operated without the possibility of direct human intervention from within or on the device.	465 466 467
(b) It uses aerodynamic forces to provide the device lift.	468
(c) It can fly autonomously or be piloted remotely.	469
(d) It can be expendable or recoverable.	470
(e) It is capable of aerial photography or video recording or equipped with a device for that purpose.	471 472
(5) "Critical infrastructure facility" means:	473
(a) One of the following, if completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders, or if clearly marked with signs that are reasonably likely to come to the attention of potential intruders and that indicate entry is forbidden without site authorization:	474 475 476 477 478 479
(i) A petroleum or alumina refinery;	480
(ii) An electric generating facility, substation, switching station, electrical control center, or electric transmission and distribution lines and associated equipment;	481 482 483
(iii) A chemical, polymer, or rubber manufacturing	484

<u>facility;</u>	485
(iv) A water intake structure, water treatment facility, waste water facility, drainage facility, water management facility, or any similar water or sewage treatment system;	486 487 488
(v) A natural gas company facility or interstate natural gas pipeline, including a pipeline interconnection, gas compressor station, city gate or town border station, metering station, above-ground piping, regulator station, well, valve site, delivery station, fabricated assembly, or any other part of a natural gas storage facility involved in the gathering, storage, transmission, or distribution of gas;	489 490 491 492 493 494 495
(vi) A telecommunications central switching office or remote switching facility or an equivalent network facility that serves a similar purpose;	496 497 498
(vii) Wireline or wireless telecommunications infrastructure, including telecommunications towers and telephone poles and lines, including fiber optic lines;	499 500 501
(viii) A port, trucking terminal, or other freight transportation facility;	502 503
(ix) A gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas or natural gas liquids;	504 505 506
(x) A transmission facility used by a federally licensed radio or television station;	507 508
(xi) A steel-making facility that uses an electric arc furnace to make steel;	509 510
(xii) A facility identified and regulated by the United States department of homeland security's chemical facility anti-	511 512

<u>terrorism standards program under 6 C.F.R. part 27;</u>	513
<u>(xiii) A dam that is regulated by the state or federal government;</u>	514
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<u>(xiv) A crude oil or refined products storage and distribution facility, including valve sites, pipeline interconnections, pump station, metering station, below- or above-ground pipeline, or piping and truck loading or off-loading facility;</u>	516
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<u>(xv) A video service network and broadband infrastructure, including associated buildings and facilities, video service headends, towers, utility poles, and utility lines such as fiber optic lines. As used in this division, "video service network" has the same meaning as in section 1332.21 of the Revised Code.</u>	521
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<u>(b) Any above-ground portion of an oil, gas, hazardous liquid or chemical pipeline, tank, or other storage facility that is enclosed by a fence or other physical barrier or is clearly marked with signs prohibiting trespassing that are reasonably likely to come to the attention of potential intruders;</u>	526
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<u>(c) With respect to a video service network or broadband or wireless telecommunications infrastructure, the above ground portion of a facility installed in a public right-of-way on a utility pole or in a conduit;</u>	532
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<u>(d) Any railroad property.</u>	536
<u>Sec. 2911.211. (A) (1) No person shall enter or remain on the land or premises of another with purpose to commit on that land or those premises a misdemeanor, the elements of which involve causing physical harm to another person or causing another person to believe that the offender will cause physical</u>	537
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harm to <u>him</u> <u>that person</u> .	542
<u>(2) No person shall enter, remain on, or operate a drone over the land or premises of another containing a critical infrastructure facility with purpose to deface, damage, destroy, or tamper with the facility, or otherwise impede or inhibit the facility's operations.</u>	543
<u>(B) Whoever violates this section is guilty of aggravated trespass. Aggravated trespass in violation of division (A)(1) of this section is a misdemeanor of the first degree. Aggravated trespass in violation of division (A)(2) of this section is a felony of the third degree. Notwithstanding section 2929.31 of the Revised Code, any organization found guilty of complicity in a violation of division (A)(2) of this section under section 2923.03 of the Revised Code shall be punished with a fine that is ten times the maximum fine that can be imposed on an individual for a felony of the third degree.</u>	548
<u>(C) As used in this section:</u>	558
<u>(1) "Critical infrastructure facility" and "drone" have the same meaning as in section 2911.21 of the Revised Code.</u>	559
<u>(2) "Organization" has the same meaning as in section 2901.23 of the Revised Code.</u>	561
Section 2. That existing sections 2307.61, 2909.07, 2909.10, 2911.21, and 2911.211 of the Revised Code are hereby repealed.	563
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2909.05 Vandalism.

(A) No person shall knowingly cause serious physical harm to an occupied structure or any of its contents.

(B)

(1) No person shall knowingly cause physical harm to property that is owned or possessed by another, when either of the following applies:

(a) The property is used by its owner or possessor in the owner's or possessor's profession, business, trade, or occupation, and the value of the property or the amount of physical harm involved is one thousand dollars or more;

(b) Regardless of the value of the property or the amount of damage done, the property or its equivalent is necessary in order for its owner or possessor to engage in the owner's or possessor's profession, business, trade, or occupation.

(2) No person shall knowingly cause serious physical harm to property that is owned, leased, or controlled by a governmental entity. A governmental entity includes, but is not limited to, the state or a political subdivision of the state, a school district, the board of trustees of a public library or public university, or any other body corporate and politic responsible for governmental activities only in geographical areas smaller than that of the state.

(C) No person, without privilege to do so, shall knowingly cause serious physical harm to any tomb, monument, gravestone, or other similar structure that is used as a memorial for the dead; to any fence, railing, curb, or other property that is used to protect, enclose, or ornament any cemetery; or to a cemetery.

(D) No person, without privilege to do so, shall knowingly cause physical harm to a place of burial by breaking and entering into a tomb, crypt, casket, or other structure that is used as a memorial for the dead or as an enclosure for the dead.

(E) Whoever violates this section is guilty of vandalism. Except as otherwise provided in this division, vandalism is a felony of the fifth degree that is punishable by a fine of up to two thousand five hundred dollars in addition to the penalties specified for a felony of the fifth degree in sections 2929.11 to 2929.18 of the Revised Code. If the value of the property or the amount of physical harm involved is seven thousand five hundred dollars or more but less than one hundred fifty thousand dollars, vandalism is a felony of the fourth degree. If the value of the property or the amount of physical harm involved is one hundred fifty thousand dollars or more, vandalism is a felony of the third degree.

(F) For purposes of this section:

(1) "Cemetery" means any place of burial and includes burial sites that contain American Indian burial objects placed with or containing American Indian human remains.

(2) "Serious physical harm" means physical harm to property that results in loss to the value of the property of one thousand dollars or more.

Cite as R.C. § 2909.05

Amended by 129th General AssemblyFile No.29, HB 86, §1, eff. 9/30/2011.

Effective Date: 09-30-1998 .

Related Legislative Provision: See 129th General AssemblyFile No.29, HB 86, §4 .

2911.21 Criminal trespass.

(A) No person, without privilege to do so, shall do any of the following:

(1) Knowingly enter or remain on the land or premises of another;

(2) Knowingly enter or remain on the land or premises of another, the use of which is lawfully restricted to certain persons, purposes, modes, or hours, when the offender knows the offender is in violation of any such restriction or is reckless in that regard;

(3) Recklessly enter or remain on the land or premises of another, as to which notice against unauthorized access or presence is given by actual communication to the offender, or in a manner prescribed by law, or by posting in a manner reasonably calculated to come to the attention of potential intruders, or by fencing or other enclosure manifestly designed to restrict access;

(4) Being on the land or premises of another, negligently fail or refuse to leave upon being notified by signage posted in a conspicuous place or otherwise being notified to do so by the owner or occupant, or the agent or servant of either.

(B) It is no defense to a charge under this section that the land or premises involved was owned, controlled, or in custody of a public agency.

(C) It is no defense to a charge under this section that the offender was authorized to enter or remain on the land or premises involved, when such authorization was secured by deception.

(D)

(1) Whoever violates this section is guilty of criminal trespass, a misdemeanor of the fourth degree.

(2) Notwithstanding section 2929.28 of the Revised Code, if the person, in committing the violation of this section, used a snowmobile, off-highway motorcycle, or all-purpose vehicle, the court shall impose a fine of two times the usual amount imposed for the violation.

(3) If an offender previously has been convicted of or pleaded guilty to two or more violations of this section or a substantially equivalent municipal ordinance, and the offender, in committing each violation, used a snowmobile, off-highway motorcycle, or all-purpose vehicle, the court, in addition to or independent of all other penalties imposed for the violation, may impound the certificate of registration of that snowmobile or off-highway motorcycle or the certificate of registration and license plate of that all-purpose vehicle for not less than sixty days. In such a case, section 4519.47 of the Revised Code applies.

(E) Notwithstanding any provision of the Revised Code, if the offender, in committing the violation of this section, used an all-purpose vehicle, the clerk of the court shall pay the fine imposed pursuant to this section to the state recreational vehicle fund created by section 4519.11 of the Revised Code.

(F) As used in this section:

(1) "All-purpose vehicle," "off-highway motorcycle," and

"snowmobile" have the same meanings as in section 4519.01 of the Revised Code.

(2) "Land or premises" includes any land, building, structure, or place belonging to, controlled by, or in custody of another, and any separate enclosure or room, or portion thereof.

Cite as R.C. § 2911.21

Amended by 128th General AssemblyFile No.9, HB 1, §101.01, eff. 10/16/2009.

Amended by 128th General Assemblych.9, HB 2, §101.01, eff. 7/1/2009.

2901.23 Criminal liability of organizations.

(A) An organization may be convicted of an offense under any of the following circumstances:

(1) The offense is a minor misdemeanor committed by an officer, agent, or employee of the organization acting in its behalf and within the scope of the officer's, agent's, or employee's office or employment, except that if the section defining the offense designates the officers, agents, or employees for whose conduct the organization is accountable or the circumstances under which it is accountable, those provisions shall apply.

(2) A purpose to impose organizational liability plainly appears in the section defining the offense, and the offense is committed by an officer, agent, or employee of the organization acting in its behalf and within the scope of the officer's, agent's, or employee's office or employment, except that if the section defining the offense designates the officers, agents, or employees for whose conduct the organization is accountable or the circumstances under which it is accountable, those provisions shall apply.

(3) The offense consists of an omission to discharge a specific duty imposed by law on the organization.

(4) If, acting with the kind of culpability otherwise required for the commission of the offense, its commission was authorized, requested, commanded, tolerated, or performed by the board of directors, trustees, partners, or by a high managerial officer, agent, or employee acting in behalf of the organization and within the scope of such a board's or person's office or employment.

(B) If strict liability is imposed for the commission of an offense, a purpose to impose organizational liability shall be presumed, unless the contrary plainly appears.

(C) In a prosecution of an organization for an offense other than one for which strict liability is imposed, it is a defense that the high managerial officer, agent, or employee having supervisory responsibility over the subject matter of the offense exercised due diligence to prevent its commission. This defense is not available if it plainly appears inconsistent with the purpose of the section defining the offense.

(D) As used in this section, "organization" means a corporation for profit or not for profit, partnership, limited partnership, joint venture, unincorporated nonprofit association, estate, trust, or other commercial or legal entity. "Organization" does not include an entity organized as or by a governmental agency for the execution of a governmental program.

Cite as R.C. § 2901.23

Amended by 129th General AssemblyFile No.79, HB 267, §1, eff. 5/22/2012.

Effective Date: 01-01-1974 .

2305.402 Duties owed to trespassers.

(A) As used in this section:

- (1) "Possessor of real property" means the owner, lessee, renter, or other occupant of real property.
- (2) "Tort action" means a civil action for damages for injury, death, or loss to person other than a civil action for damages for a breach of contract or another agreement between persons.
- (3) "Trespasser" means an individual who, without express or implied authorization, invitation, or inducement, enters real property purely for the individual's own purposes and convenience.
- (4) "Child" means an individual under eighteen years of age.

(B) The possessor of real property does not owe a duty of care to a trespasser on the property except to refrain from willful, wanton, or reckless conduct that is likely to cause injury, death, or loss to the person of the trespasser.

(C) Notwithstanding division (B) of this section, the possessor of real property is liable in damages to a trespasser on the property or to any other person in a tort action for injury, death, or loss to the person of the trespasser that allegedly is caused by the possessor of the real property if, at the time the injury, death, or loss allegedly is caused, the possessor knows, or from facts within the possessor's knowledge should know or believe, that the trespasser is in a position of peril on the property, and the possessor of the property fails to exercise ordinary care to avoid causing that injury, death, or loss.

(D)

(1) Notwithstanding division (B) of this section, the possessor of real property is liable in damages to a trespasser on the property who is a child, to a parent, guardian, or custodian of the child, or to any other person in a tort action for injury, death, or loss to the person of the child that allegedly is caused by an artificial condition on the real property if, at the time the injury, death, or loss allegedly is caused, all of the following apply:

(a) The place on the property where the artificial condition exists is a place upon which the possessor of the property knows or has reason to know that children are likely to trespass.

(b) The artificial condition is a condition that the possessor of the property knows, has reason to know, realizes, or should realize will involve an unreasonable risk of death or serious injury to those children.

(c) Because of their youth, the children who are likely to trespass on the property do not discover the artificial condition on the property or do not realize the risk involved in intermeddling with it or coming within the area made dangerous by it.

(d) The utility to the possessor of the property of maintaining the artificial condition and the burden of eliminating the danger involved in maintaining the condition are slight in comparison to the risk of injury, death, or loss to the person of those children.

(e) The possessor of the property fails to exercise reasonable care to eliminate the danger involved in maintaining the artificial condition or to otherwise protect the children who are likely to trespass on the property.

(2) Notwithstanding division (B) of this section, the possessor of real property is liable in damages to an adult person who trespasses on the property or to any other person in a tort action for injury, death, or loss to the person of the adult that allegedly is caused in an attempt by the adult person to rescue a child who trespasses on the property under the conditions specified in division (D)(1) of this section.

(E)

(1) This section does not create a new cause of action or substantive legal right against the possessor of real property.

(2) This section does not affect any civil liability under another section of the Revised Code or the common law of this state of a possessor of real property with respect to trespassers under circumstances not covered by this section or with respect to individuals other than trespassers, including, but not limited to, civil liability to invitees or licensees on the property.

(3) This section does not affect any immunities from or defenses to tort liability established by another section of the Revised Code or available at common law to which a possessor of real property may be entitled in connection with injury, death, or loss to the person or property of a trespasser on the property, including, but not limited to, self-defense or defense of third persons.

(4) This section does not affect any criminal liability that the possessor of real property may have for injury, death, or loss to the person or property of a trespasser on the property.

(5) This section does not affect any immunities from or defenses to civil liability established by another section of the Revised Code or available at common law to which a possessor of real property may be entitled in connection with injury, death, or loss to the person or property of a trespasser on real property owned, leased, rented, or occupied by another person, including, but not limited to, self-defense or defense of third persons.

Cite as R.C. § 2305.402

Added by 129th General AssemblyFile No.122, SB 202, §1, eff. 9/6/2012.

Related Legislative Provision: See *129th General AssemblyFile No.122, SB 202, §2* .

2909.07 Criminal mischief.

(A) No person shall:

(1) Without privilege to do so, knowingly move, deface, damage, destroy, or otherwise improperly tamper with the either of the following:

(a) The property of another;

(b) One's own residential real property with the purpose to decrease the value of or enjoyment of the residential real property, if both of the following apply:

(i) The residential real property is subject to a mortgage.

(ii) The person has been served with a summons and complaint in a pending residential mortgage loan foreclosure action relating to that real property. As used in this division, "pending" includes the time between judgment entry and confirmation of sale.

(2) With purpose to interfere with the use or enjoyment of property of another, employ a tear gas device, stink bomb, smoke generator, or other device releasing a substance that is harmful or offensive to persons exposed or that tends to cause public alarm;

(3) Without privilege to do so, knowingly move, deface, damage, destroy, or otherwise improperly tamper with a bench mark, triangulation station, boundary marker, or other survey station, monument, or marker;

(4) Without privilege to do so, knowingly move, deface, damage, destroy, or otherwise improperly tamper with any safety device, the property of another, or the property of the offender when required or placed for the safety of others, so as to destroy or diminish its effectiveness or availability for its intended purpose;

(5) With purpose to interfere with the use or enjoyment of the property of another, set a fire on the land of another or place personal property that has been set on fire on the land of another, which fire or personal property is outside and apart from any building, other structure, or personal property that is on that land;

(6) Without privilege to do so, and with intent to impair the functioning of any computer, computer system, computer network, computer software, or computer program, knowingly do any of the following:

(a) In any manner or by any means, including, but not limited to, computer hacking, alter, damage, destroy, or modify a computer, computer system, computer network, computer software, or computer program or data contained in a computer, computer system, computer network, computer software, or computer program;

(b) Introduce a computer contaminant into a computer, computer system, computer network, computer software, or computer program.

(B) As used in this section, "safety device" means any fire extinguisher, fire hose, or fire axe, or any fire escape, emergency exit, or emergency escape equipment, or any life line, life-saving ring, life preserver, or life boat or raft, or any alarm, light, flare, signal, sign, or notice intended to warn of danger or emergency, or intended for other safety purposes, or any guard railing or safety barricade, or any traffic sign or signal, or any railroad grade crossing sign, signal, or gate, or any first aid or survival equipment, or any other device, apparatus, or equipment intended for protecting or preserving the safety of persons or property.

(C)

(1) Whoever violates this section is guilty of criminal mischief, and shall be punished as provided in division (C) (2) or (3) of this section.

(2) Except as otherwise provided in this division, criminal mischief committed in violation of division (A)(1), (2), (3), (4), or (5) of this section is a misdemeanor of the third degree. Except as otherwise provided in this division, if the violation of division (A)(1), (2), (3), (4), or (5) of this section creates a risk of physical harm to any person,